



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-39

Legistar #: 20120834

Board of Zoning Appeals Hearing: Monday, September 24, 2012 – 6:00 p.m.

**Applicant:** Robert Armstrong  
6283 Indian Field  
Norcross, GA 30092

**Property Owner:** Manfred Kammerer  
Kammerer Real Estate Holdings, LLC  
2329 John Glenn Drive  
Chamblee, GA 30341

**Address:** 737, 681, 687 and 701 Cobb Parkway South

**Land Lot:** 05740      **District:** 17      **Parcel:** 0150, 0020, 0190 and 0030

**Council Ward:** 7      **Existing Zoning:** CRC (Community Retail Commercial)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to reduce the side yard setback from 15' to 9.1' on Lot 1. [§ 708.16(G)]
2. Variance to reduce the side yard setback from 15' to 9.1' on Lot 2. [§ 708.16(G)]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**Aerial view of site**



**Lot #1**



**Lot #2**



**Lot #3**



**Location of variance – side setbacks**





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**Recommended Action:**

**Approval.** The applicant, Robert Armstrong, is requesting side setback variances for the properties located at 681, 687, 701, and 737 Cobb Parkway South. The subject properties are all zoned CRC (Community Retail Commercial), as are most of the surrounding properties save a small ~40' wide parcel running along the entire east side, which is zoned LI (Light Industrial). This site is the location of the former Marietta Dodge facility. A new owner has purchased the property and wishes to reconfigure the existing property lines so that each of the three buildings is an individual parcel.

There is currently only 18.2' between the buildings on Lot 1 and Lot 2. A minimum of 30' between the buildings would be necessary to provide the full 15' setback required by CRC on each property. As a result, the applicant is requesting variances to reduce the side yard setback for Lots 1 and 2 in order to accommodate the existing buildings only; and any additions to any of the existing buildings would have to meet current building setbacks.

There are many other aspects of the site that are not in compliance with the Zoning Ordinance, such as impervious coverage, tree density, tree islands, and front setbacks, etc. However, these nonconformities are existing, are not being increased, and may continue until the site is redeveloped according to Section 706. The side setback variances are necessary because they are being created by the subdivision.

Because the side setback encroachments will not negatively impact any neighboring properties or the community as a whole, staff recommends approval of these variance requests. Further, the approval of these variances will help facilitate the boundary line revision, which will result in a much more reasonable configuration of the properties. As a result, ***staff recommends approval of these variance requests, with the following stipulations:***

- 1. Any additions to any of the existing buildings would have to meet current building setbacks; and,***
- 2. These variances are approved for the current developed property only, and should be discontinued upon the redevelopment of the site(s), according to Section 706.03, Continuance of a nonconforming building or structure.***